

347—300.10(17A) Hearing procedures. The hearing is regulated generally by Iowa Code subsections 17A.12(3) to 17A.12(8).

300.10(1) *Role of the administrative law judge.* The administrative law judge shall:

- a. Open the record and receive appearances.
- b. Administer oaths and issue subpoenas.
- c. Enter the notice of hearing into the record.
- d. Receive testimony and exhibits presented by the parties.
- e. Interrogate witnesses.
- f. Rule on objections and motions.
- g. Close the hearing to the public.
- h. Issue a decision containing findings of facts and conclusions of law.

300.10(2) *Failure to appear.* If a party fails to appear at the hearing the administrative law judge shall recess the hearing for 30 minutes. If the missing party has not appeared during that time or otherwise contacted the administrative law judge, the judge may proceed with the hearing and render a decision in the absence of the party.

300.10(3) *Decorum.* Any person or party who displays unruly or contemptuous behavior may be expelled from the hearing.

300.10(4) *Proceedings recorded and open to the public.* The hearing shall be recorded by machine. A party may demand, by giving notice ten days prior to the hearing, that the hearing be recorded by a certified shorthand reporter, but that party must bear all costs associated with the shorthand reporter. The record of the hearing or a transcript shall be filed with the division and maintained for a period of five years.

The hearing shall be open to the public unless that right is waived pursuant to Iowa Code section 17A.10(2).

300.10(5) *Presentation of testimony and evidence.* In the hearing each party shall have the right to present evidence and the testimony of witnesses, and to cross-examine the witnesses of another party. A person who has submitted testimony in written form is subject to cross-examination if that person is available. Opportunity shall be afforded to each party for redirect and recross-examination, and to present evidence and testimony as rebuttal to evidence presented by another party.

300.10(6) *Briefs.* At any time during the contested case proceeding the administrative law judge may order the filing of briefs on any of the issues.

300.10(7) *Ex parte communications.* Unless required for the disposition of ex parte matters specifically authorized by statute, there shall be no communication between the administrative law judge and any of the parties concerning any issue of fact or law unless all parties are given advance notification of the communication and its content, and are provided an opportunity to respond to the communication.

Any other method of ex parte communication is unlawful under the provisions of Iowa Code section 17A.17(2). If the administrative law judge receives an unlawful communication it shall be included in the case record, if written, or summarized and included in the record if oral. The administrative law judge may immediately decide the contested case against the party making the unlawful communication if the surrounding circumstances indicated a willful violation of this subrule. In the case of an unintentional violation the administrative law judge shall warn the party and accord all the other parties to the case an opportunity to respond to the communication.

300.10(8) *Record.* The record in a contested case shall include:

- a. All pleadings, motions and intermediate rulings.
- b. All evidence received or considered and all other submissions.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings.
- e. All proposed findings and exceptions.
- f. Any decision, opinion or report by the judge presiding at the hearing.